

APR 28 2006

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

67,108-022; Capece 2-11

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I hereby certify that this Pre-Appeal Brief Request For Review and Notice of Appeal are being facsimile transmitted to (571) 273-8300.

on April 28, 2006

Signature

Typed or printed name Theresa M. Palmateer

Application Number

10/686,451

Filed

10/15/2003

First Named Inventor

Capece, Christopher J.

Art Unit

2688

Examiner

Stein, Julie E.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

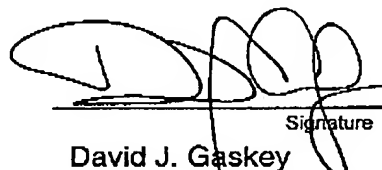
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 37,139

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34


Signature

David J. Gaskey

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Telephone number

April 28, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.8. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Capece 2-11

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: Capece, Christopher J.

Serial No.: 10/686,451

Filed: 10/15/2003

Group Art Unit: 2688

Examiner: Stein, Julie E.

For: NEURAL NETWORK-BASED EXTENSION OF
GLOBAL POSITION TIMING

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APR 28 2006

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
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Dear Sir:

Applicant respectfully submits that there is no *prima facie* case of obviousness. The §103 rejection is based upon the *Telia* reference (EP 0631 453). The Examiner's position appears to be that because a timing advance is used in the *Telia* reference and a neural network is used for locating a mobile station, that it would be obvious to use a neural network for generating a data set that provides future time information for a wireless communications base station. Applicant respectfully submits that there is no *prima facie* case of obviousness because there is no suggestion for modifying the teachings of the *Telia* reference in a manner to render it consistent with Applicant's claims.

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The *Telia* reference is only concerned with position information. The neural network in that reference uses a set of reference data gathered by a measuring mobile that carries out measurements over relevant traffic routes. The neural network is eventually trained to provide a desired level of position information accuracy.

The *Telia* reference discusses using a “timing advance (TA) which provides an approximate distance.” (Column 3, lines 21-22) The *Telia* reference expressly teaches using the timing advance information as an indication of distance and not as an indication of time. While a timing advance technically is based upon a time that it takes for a signal to be transmitted between a mobile station and a base station, there is nothing within the *Telia* reference that in any way suggests somehow extracting from that and using a neural network for generating a data set of future time information. There is no possible way of obtaining that result from the teachings of the *Telia* reference because it is exclusively concerned with locating mobile stations.

Absent Applicant’s disclosure, there is no possible way of finding any motivation from within the *Telia* reference for generating future time information. The inputs to the neural network of the *Telia* reference are intended to generate position information. Even the timing advance of the *Telia* reference does not provide time information in the sense of a time of day. Rather, it uses the amount of time it takes a signal to travel between a mobile station and a base station and the known signal travel speed for determining “an approximate distance.” Assuming it is used contrary to *Telia*’s express teaching that it provides an approximate distance, it only provides information regarding how much time it takes for a signal to travel from a mobile station to a base station. That does not, in any way, enable the neural network of the *Telia* reference to generate future time information. The complete redesign that would be required by

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one starting with the teachings of the *Telia* reference and attempting to arrive at an arrangement even remotely close to Applicant's claimed invention can only be based upon hindsight reasoning. There is no *prima facie* case of obviousness.

Respectfully submitted,

CARLSON, GASKEY & OLDS

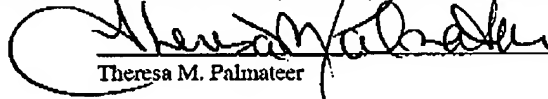
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Dated: April 28, 2006

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I hereby certify that this Pre-Appeal Brief Request for Review, relative to Application Serial No. 10/686,451 is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on April 28, 2006.


Theresa M. Palmateer

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